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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,707	11/18/2003	Mark A. Alcazar	MS1-1798US	5422
22801	7590	02/28/2007		
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			EXAMINER SEYE, ABDOU K	
			ART UNIT 2194	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	02/28/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/28/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

## Office Action Summary

Application No.

10/715,707

Applicant(s)

ALCAZAR ET AL.

Examiner

Abdou Karim Seye

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.


### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date 08/29/2006, 02/28/2005.

  
WILLIAM THOMSON  
SENIOR PATENT EXAMINER

4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

1. This is the initial office action based on the application filed on August 26, 2003.

Claims 1-30 are currently pending and have been considered below.

#### ***Claim Objections***

2. Claim 2 is objected to because of the following informalities:

Claim 2 contains this expression "of claim 2 " and should be dependent on claim 1.

The examiner considers the following character " 2" as a typographical error from the applicant.

A correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

Claim 20 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Appropriate clarification is required on the following claims:

Claim 20 recites the limitation "the determination". There is insufficient antecedent basis for the limitation in this claim.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

5. Claims 1-8 and 9-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1 and 9 are not limited to statutory embodiments. In view of Applicant's disclosure, specification (see page 6, lines 15-27), the medium is not limited to physical articles or objects embodiments, instead being defined as including both physical articles or objects embodiments (e.g., CDs and DVDs) and non physical embodiments (e.g., data signals embodied in a carrier wave). The non physical embodiments are a form of energy. Energy does not fall into a statutory category of invention and therefore the claim is not statutory.

To overcome this type of 101 rejection the claim need to be amended to include only the physical computer media and not a transmission media or other non physical or non-functional media (i.e. recordable type media, see specification, page 6, lines 5-14). Dependent claims 2-8 and 10-13 are also affected by these claims rejection.

Appropriate change is required.

Applicant may choose to change the claims language "A computer- readable medium" to claim only the storage media in order to make these claims statutory.

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Appropriate change is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-20 are rejected under 35 U.S.C. 102 (e) as being anticipated by **LaMacchia et al. (US 6981181)**.

Claims 1 and 9, LaMacchia teaches,

a computer-readable medium having computer-executable components, comprising:

a body of code that includes a function call that operates to cause

the body of code to be hosted in a first hosting environment, the absence of

the function call being operative to cause the body of code to be hosted in a

second hosting environment (fig. 1; col. 5, lines 10-31) .

Claims 2 and 10, LaMacchia teaches,

wherein the body of code comprises an executable file (col. 4, lines 35-45).

Claim 3, LaMacchia teaches,

wherein the function, when compiled, results in a byte signature within an executable code, the byte signature being indicative of the function call (col. 8, lines 31-35; col. 13, lines 65-67 and col. 14, lines 1-12).

Claim 4, LaMacchia teaches,

wherein the first hosting environment comprises a browser hosting environment (fig. 1, col. 5, lines 32-40)

Claim 5, LaMacchia further teaches,

wherein the second hosting environment comprises a standalone hosting environment (fig. 1 col. 5, lines 43-45).

Claim 6, LaMacchia teaches,

wherein the first hosting environment comprises a standalone hosting environment (col. 5, lines 35-40).

Claim 7, LaMacchia teaches,

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wherein the function comprises a public static function that, when called, results in the body of code being hosted in the first hosting environment (col. 5, lines 10-21; col. 6, lines 11-20).

As per claim 8, it is rejected for the same reasons as claim 7 above.

As per claims 11, 12 and 13, they are rejected for the same reasons as claims 4 and 5 above.

As per claims 14-20, they are rejected for the reasons as the claims above.

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Razavi et al (6401134) discloses detachable Java applets.

Sarkar et al (20040015839) discloses a Method for running existing Java beans in an enterprise Java bean environment.

Rochette et al (20060184931) discloses a system Including Run-Time Software To Enable A Software Application To Execute On An Incompatible Computer Platform.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571)

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270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

AKS  
February 14, 2007

William Thomson  
Supervisory Patent Examiner